

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ARI TEMAN,

Defendant.

19-CR-696 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received the attached letter from defendant Ari Teman, indicating that he has experienced delays in retaining new counsel on account of difficulties securing the funds necessary to do so. The Court extends until January 8, 2021 the deadline for new counsel for Mr. Teman to appear.

Mr. Teman's letter also states that he has terminated his trial counsel, Justin Gelfand, Esq., and Joseph DiRuzzo, Esq. For avoidance of doubt, the Court has not authorized the withdrawal of trial counsel, and it is imperative, unless and until the Court has affirmatively authorized Mr. Teman to represent himself *pro se*, that Mr. Teman be represented by counsel in this matter. Therefore, although the Court expects that it will grant a motion by trial counsel to withdraw upon the appearance of successor counsel, for the time being, Mr. Gelfand and Mr. DiRuzzo remain counsel of record to Mr. Teman.

Mr. Teman's letter further asks the Court to direct that the law firm of Sher Tremonte return a retainer to him or transfer it to the potential successor counsel he has identified. The Court is not privy to the written or other terms of any agreement governing Mr. Teman's representation by Sher Tremonte or any retainers paid thereunder, and in any event, it is not within the Court's purview in this case to resolve that commercial dispute. The Court hopes that

Mr. Teman's existing counsel will assist him in amicably resolving any dispute he may have with Sher Tremonte.

Mr. Teman's letter finally refers again to alleged *Brady* violations in this case. The Court reminds Mr. Teman that it has comprehensively reviewed and resolved his claims of *Brady* violations and has found them to be completely without merit. To the extent Mr. Teman claims that the updated restitution order that the Government submitted on the eve of the scheduled sentencing date bespoke a *Brady* violation, the Court, on the present record, finds that claim meritless too. The Government acted properly in securing updated information from the victim as to the present state of its out-of-pocket loss and properly notified the Court and the defense of a calculation that modestly reduced the amount needed to make the bank whole. While the Court was dismayed by the Government's late attention to the issue and last-minute submissions, which would have necessitated a short delay of sentencing had Mr. Teman's representation issues not independently required an adjournment, there is no basis on which to claim that the Government violated its *Brady* obligations in connection with these events.

The Court wishes Mr. Teman and all counsel a healthy and happy new year.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: December 23, 2020
New York, New York



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Ari Teman, Founder & CEO
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To: The Honorable Paul A. Engelmayer
District Judge, Southern District of New York
40 Foley Square, New York, NY 10007

Dec 23, 2020

Re: Sher Tremonte

Your Honor,

I write to update the Court on the dilemma regarding my legal representation (Doc. 180). On December 1, 2020, at my scheduled sentencing hearing, I first learned that my counsel at Sher Tremonte LLP (Noam Biale) was married to AUA Margaret Graham, a prosecutor in the same office that seeks to put me in prison. I did not learn of this conflict from my counsel, nor from AUSA Kedar Bhatia (despite his awareness of this conflict). I learned of it from Your Honor. Over the past weeks, I have worked diligently to engage new counsel and I hope to formally retain Susan G. Kellman and Andrew J. Frisch shortly. (Justin Gelfand and Joseph DiRuzzo have been terminated, and have my thanks and permission to withdraw.)

As the Court also knows, I appeared at my scheduled sentencing with funds sufficient to pay the full restitution alleged by the Government.¹ These funds were - and, I hope, still are - being held by Sher Tremonte. In connection with my anticipated engagement of Ms. Kellman and Mr. Frisch, I have instructed Sher Tremonte to disburse: (1) return my retainer; and (2) wire my restitution funds to Ms. Kellman's escrow account. Despite multiple written requests, Sher Tremonte has not disbursed my funds and has not provided any explanation for their refusal to do so (in fact, they have not responded to me, nor to Ms. Kellman or Mr. Frisch, in any manner). Given Sher Tremonte's refusal to disburse my funds (and the upcoming holidays), I am unable to meet the Court's deadline for me to engage new counsel.

Accordingly, I respectfully request that your Honor order Sher Tremonte to immediately transfer all funds held on my behalf to Ms. Kellman's escrow account without further delay.

I wish The Court and those copied Happy Holidays and a Happy New Year.

Thank you,

A handwritten signature in blue ink, appearing to read "Ari Teman", with a stylized flourish.

Ari Teman

¹ As the Court also knows, on the eve of my sentencing the Government first disclosed additional evidence that casts doubt on the damages and restitution amounts claimed. This information also contradicts the testimony of Bank of America's representative. The Government has not explained why they failed to disclose this important information to me until hours before my scheduled sentencing. There are many other disclosure violations, and new evidence, which Ms. Graham's husband fought against us revealing to the court.

(Via email via Chambers' email)

CC: AUSA Kedar Bhatia, AUSA Edward Imperatore, US Attorney Audrey Strauss,
Ms. Susan Kellman, Mr. Andrew Frisch, Mr. Justin Gelfand, and Mr. Joseph DiRuzzo (via Email)